United Nations CAT/C/LIE/CO/4

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the fourth periodic report of Liechtenstein*

1. The Committee against Torture considered the fourth periodic report of Liechtenstein (CAT/C/LIE/4) at its 1357th and 1359th meetings (see CAT/C/SR.1357 and CAT/C/SR.1359), held on 9 and 10 November 2015, and adopted the present concluding observations at its 1378th meeting, held on 24 November 2015.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and for the timely submission of its fourth periodic report.

3. The Committee appreciates the quality of its constructive dialogue with the State party's high-level multisectoral delegation and the detailed replies provided to the questions and concerns raised by the Committee members during the consideration of the report.

B. Positive aspects

4. The Committee commends the State party for the absence of records of allegations of torture since its accession to the Convention. It also commends the State party for its stated strategy of zero tolerance of torture.

5. The Committee also commends the State party for complying with the follow-up procedure and the recommendations contained therein.

6. The Committee welcomes the legislative measures taken by the State party to give effect to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in particular:

(a) The amendments to the Criminal Code, the Code of Criminal Procedure, the Law on the Criminal Register, the Expungement of Judicial Convictions, and the Execution of Sentences Act, which were approved by the Parliament of Liechtenstein in March 2011 and entered into force on 1 June 2011;

(b) The revision of criminal law which allows for nearly all offences involving domestic violence of a sexual nature to be prosecuted ex officio, including the abolition of

* Adopted by the Committee at its fifty-sixth session (9 November-9 December 2015).

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special treatment in cases of spousal rape and establishing spousal rape as an offence requiring public prosecution that does not require the victim's consent;

(c) The revision of the Criminal Code introducing the explicit codification of the offence of female genital mutilation;

(d) The revision of the Code of Criminal Procedure to strengthen the rights of victims of domestic violence in criminal procedures, in 2012;

(e) The revision of the Code of Criminal Procedure expressly stipulating that every suspect and accused person may consult a lawyer prior to every occurrence of questioning, including by the police, and that the lawyer may attend the questioning, which entered into force on 1 October 2012;

(f) The replacement of the Refugee Act by the new Liechtenstein Asylum Act, which explicitly recognizes gender-specific grounds for granting refugee status and explicitly mentions torture as a ground for non-refoulement, which entered into force on 1 June 2012;

(g) The amendment of the Civic Rights Act concerning the right of convicted persons to vote, which entered into force on 1 December 2012.

7. The Committee also welcomes the initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including the establishment by the Liechtenstein Chamber of Lawyers of the legal on-call service with an number that can be used by suspects to exercise their right to contact a defence lawyer even outside regular office hours, as of 1 December 2012.

8. The Committee notes with satisfaction the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 30 January 2013.

9. The Committee also notes with satisfaction that the State party has supported the United Nations Voluntary Fund for Victims of Torture since 2008; that it supports specialized civil society work in the area of torture prevention and promotes the ratification of the Optional Protocol to the Convention against Torture and the setting up of national preventive mechanisms in Latin American countries; and that it has extended and will maintain a permanent invitation to all special procedures of the Human Rights Council.

C. Principal subjects of concern and recommendations

Definition of torture and statute of limitations

10. While noting that a working group is currently discussing the definition of torture and the statute of limitations relating to it and will report to the Government in June 2016, the Committee is concerned at the absence in the Criminal Code of a distinct crime of torture based on the definition in article 1 of the Convention and the continued existence of a statute of limitations with respect to offences that would amount to torture (arts. 1 and 4).

11. **The Committee reiterates its previous recommendation that the State party should incorporate into its domestic criminal law a distinct crime of torture in conformity with article 1 of the Convention and ensure that offences that amount to acts of torture carry penalties commensurate with the gravity of this crime. The State party should also ensure that in the next revision of the Criminal Code acts amounting to torture are not subject to any statute of limitations. The Committee draws the State party's attention to paragraph 11 of its general comment No. 2 (2007) on the implementation of article 2 by States parties, which underscores the preventive effect of having the crime of torture defined as an offence in its own right.**

Fundamental legal safeguards

12. The Committee is concerned that interrogations by police after arrest are not automatically audio- and video-recorded but are recorded only in specific cases stipulated by law, such as in cases of interrogation of minors as victims of sexual offences or when the detained person is not cooperating or shows signs of agitation, as well as at the express request of the detained person (arts. 2, 12, 13 and 16).

13. **The State party should consider amending the Code of Criminal Procedure with a view to introducing, as a basic safeguard, the mandatory audio- and video-recording of all police interrogations and questioning as part of efforts to prevent torture and ill-treatment.**

Separation of competences between corrections and investigations authorities

14. The Committee remains concerned at the continued lack of separation of competencies in the correctional system of the State party between the Ministry of Justice and the Ministry of Home Affairs and that penitentiary facilities under the authority of the Ministry of Justice are not separated from the detention and investigation facilities under the authority of the National Police (art. 2).

15. **The Committee reiterates its recommendation that the State party consider amending its legislation to ensure complete separation between the functions of investigation and detention in order to ensure the full and exclusive competence of the Ministry of Justice over the penitentiary system, as recommended by the Corrections Commission with a view to bringing it into line with European and international standards. There should be a formal and effective separation of premises from those under the control of the National Police.**

Treatment of persons deprived of their liberty

16. While taking note of the size and holding capacity of Vaduz National Prison, the Committee is concerned at the continued absence of a full-time nurse or other medical personnel in the prison. It is also concerned that corrections staff continue to distribute medicines to persons deprived of their liberty. In addition, the Committee is concerned at the shortage of space in the prison, which has a negative impact on the work and leisure activities of prisoners (arts. 2, 11-13 and 16).

17. **The Committee reiterates its recommendation that the State party should review its policy of health services in Vaduz National Prison and consider the appointment of a nurse or other medical personnel in order to preserve medical confidentiality, convey requests of detainees to have a medical examination, control stocks and ensure that medicines are provided only by qualified medical staff, in line with international standards. All persons arriving in a penitentiary institution should be examined by an independent medical doctor within 24 hours of arrival. The State party should also find a solution to guarantee work and leisure activities of prisoners to facilitate their return to social life.**

Separation of categories of detained persons

18. While taking note of the arrangements for separation between men and women as well as juveniles and adults, the Committee remains concerned that there is no separation in Vaduz National Prison between convicted prisoners and persons detained on remand (arts. 2 and 11).

19. **The Committee reiterates its recommendation that the State party enhance its efforts to ensure proper separation of detainees in Vaduz National Prison.**

Violence against women

20. While taking note with appreciation of the recent amendments to the State party's criminal and sexual criminal law, as well as the decrease in the incidence of domestic violence, the Committee is concerned that no plan has yet been established in follow-up to the National Action Plan on Violence against Women that was adopted in 2006. It is also concerned that victims of sexual or other forms of gender-based violence may, in practice, be overlooked during the refugee status determination procedures (arts. 2, 3, 12-14 and 16).

21. **The State party should take steps to adopt a new plan in follow-up to the National Action Plan on Violence against Women implemented in 2009. It should also ensure that a gender-sensitive approach is applied during the refugee status determination procedure that allows for the identification of victims of sexual or gender-based violence.**

Trafficking in human beings

22. While noting that trafficking in human beings is a specific offence under the Liechtenstein Criminal Code and appreciating the efforts made by the State party to prevent and combat human trafficking, including the holding since 2006 of the Round Table on Human Rights chaired by the National Police, the Committee is concerned that the vulnerability of asylum-seeking women and girls and female migrants may be overlooked and that they may risk becoming victims of trafficking (arts. 2, 3, 12-14 and 16).

23. **The State party should ensure a gender-sensitive asylum procedure that responds to the specific protection needs of women and girls who are or may become victims of trafficking. It should provide training to police and immigration officers on identifying and dealing with victims of trafficking and gender-specific violence.**

National human rights institution

24. The Committee is concerned at the absence of a national human rights institution in the State party (art. 2).

25. **The State party should establish an independent national institution for the promotion and protection of human rights with a broad mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Training

26. The Committee is concerned at the absence of specific training of law enforcement personnel and other public officials involved in work with persons deprived of their liberty, asylum seekers and migrants on the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. It is also concerned at the lack of training of medical doctors and other medical personnel on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and at the absence of specific methodologies to evaluate the effectiveness and impact of the training provided (art. 10).

27. **The State party should ensure that law enforcement personnel and other public officials involved in work with persons deprived of their liberty, asylum seekers and migrants receive training on the prohibition against torture and that the Istanbul Protocol is made an essential part of the training, in particular, for all medical professionals. The State party should develop and implement specific methodologies to assess the effectiveness and impact of such training.**

Follow-up procedure

28. **The Committee requests the State party to provide, by 9 December 2016, information on follow-up to the Committee's recommendations on the definition of torture, the treatment of persons deprived of their liberty, violence against women and training (see paras. 11, 17, 21 and 27 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

Other issues

29. **The Committee invites the State party to consider ratifying the other United Nations human rights treaties to which it is not yet party, namely the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.**

30. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

31. **The State party is invited to submit its next periodic report, which will be its fifth, by 9 December 2019. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fifth periodic report under article 19 of the Convention.**